

REMARKS

After entry of this Amendment claims 1-25 are pending in this application. For the following reasons, it is respectfully submitted that Applicant's invention as set forth in the claims includes features which are not anticipated or rendered obvious by the cited references, taken singly or in combination. Reconsideration of the application as amended is requested.

In the Final Office Action dated January 4, 2007, claims 1-25 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Becker, U.S. Patent No. 5,549,760 in conjunction with Nelson, U.S. Patent No. 4,985, 106 or Herreman, U.S. Patent No. 5,965,851, in view of either Jordan, U.S. Patent Application Publication No. 2005/0076938 or Marks et al, U.S. Patent No. 5,549,760. The Examiner asserts that although Becker, Nelson, and Herreman do not disclose a sound attenuator substantially closing the motor cavity opening to attenuate the sound emanating through the motor cavity opening and an access panel covering the motor panel, it would have been obvious to one skilled in the art to have modified the dishwashers in Becker, Nelson, and Herreman by substantially closing the motor cavity opening with the sound attenuator to attenuate the sound from the motor cavity and adding an access panel as taught by Marks and Jordan.

Claim 1 discloses dishwasher with a motor cavity having a front-facing motor cavity opening defined intermediate the wash tub bottom wall and the support frame lower portion. A sound attenuator comprising a sound barrier element and a sound absorbing element substantially closes the motor cavity opening to attenuate the sound emanated from the motor cavity through the motor cavity opening. Claim 16 recites a method of installing a motor cavity sound attenuator. The method includes providing a sound attenuator comprising a sound barrier and a sound absorber and positioning the sound attenuator to cover the motor cavity opening. Claim 25 recites a dishwasher with a motor cavity having a front-facing motor cavity opening defined intermediate the wash tub bottom wall and the support frame lower portion, an access panel covering the motor cavity opening, and a sound attenuator comprising a sound barrier element and a sound absorbing element inserted into and substantially closing the motor cavity opening to attenuate the sound emanated from the motor cavity through the motor cavity opening.

Becker discloses a dishwasher tub having an insulation sheet 32 mounted around the exterior top and sides of the wash tub for limiting noise "emanating from the tub 10." Col. 2, ll. 60-67. The exterior sides of the wash tub includes mounting tabs 24 that

secure the insulation sheet 32 to the outer tub when mounting clips 38 are inserted in the tabs 24. See Figs. 4 and 7.

Nelson discloses a multi-layered insulation panel for an appliance such as a dishwasher. A sealing and insulating device 155 is positioned on the exterior surface of the dishwasher housing 151 and overlays the two side panels and the top panel of the housing 151. Col. 17, ll. 39-42 and Figs. 14-15. The first and second layers are joined together along the peripheral edges to define an enclosed cavity where the insulation material is retained between the layers. Col. 4, ll. 33-36 and Figs. 1-4. Nelson is relevant only for its disclosure of a multi-layered insulating material to be used on the exterior of a dishwasher.

Herreman discloses an insulation panel 24, 26, 28 having a sound absorbing layer and a sound reflecting barrier. The insulation panels are attached to various dishwasher faces. Col. 3, ll. 9-11 and Fig. 1. Alternatively, the panels may be attached to a rigid termination member, such as a kitchen cabinet wall 39 rather than directly to the appliance. Col. 4, ll. 57-60. Applicant submits, as stated by the Examiner, Becker, Nelson and Herreman are devoid of a sound attenuator substantially closing the motor cavity opening to attenuate the sound emanating from the motor cavity through the motor cavity opening as recited in independent claims 1, 16 and 25.

Marks is relevant only for its disclosure of an access panel 16 for a dishwasher front, located beneath and flush with the door. It is resubmitted that Becker, Nelson, and Herreman do not anticipate, teach or suggest the configuration where a sound attenuator substantially closing the motor cavity opening as recited in claims 1, 16 and 25, and the addition of the Marks reference does not overcome this deficiency.

Applicant submits herewith a Declaration under rule 37 C.F.R. 1.130 stating that the application and the cited reference, Jordan, are currently owned by the same party and that the inventor named in the application is the prior inventor under 35 U.S.C. 104. Applicant also submits herewith a Terminal Disclaimer in accordance with 37 C.F.R. 1.321(c). As such, it is respectfully submitted that Jordan must be disqualified as a reference and is not a citable reference against Applicant's invention as set forth in claims 1-25. Since the Examiner has noted that Becker, Nelson and Herreman lacks a sound attenuator substantially closing the motor cavity opening to attenuate the sound emanating from the motor cavity through the motor cavity opening and Marks is relevant only for its disclosure of an access panel, it is respectfully submitted that Applicant's invention as set forth in claims 1-25 includes features which are not anticipated, taught, or suggested by

Becker, Nelson, Herreman, and Marks, taken singly or in combination. Reconsideration of the rejection is respectfully requested.

This after-final amendment does not raise new issues that would require further consideration and/or search, since the proposed amendments incorporate previously recited limitations from dependent claims into the independent claims and these limitations have been previously considered and searched by the Examiner; does not raise the issue of new matter, since the proposed amendments have support in the originally filed application including the specification, claims and drawings; does place the application in better form for appeal by materially reducing and/or simplifying the issues for appeal; and/or does not present additional claims without canceling a corresponding number of finally rejected claims.

It is respectfully submitted that this Amendment traverses and overcomes all of the Examiner's objections and rejections to the application and places the application in suitable condition for allowance; notice of which is respectfully requested. Reconsideration of the application is requested.

Respectfully submitted,

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/Deborah A. Tomaszewski/
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Date: March 05, 2007

Deborah A. Tomaszewski